

FIRST APPEAL NO. 180 OF 2003

Ramdas P. Borkar,
major in age,
4, Pushpa Apartments,
Vile Parle (East),
Mumbai 400 057.

Also r/o 8/27 Parleshwar
Society, Behind Laxmi
Talkie, M.G. Road,
Vile Parle (East),
Mumbai 400 057.

...Appellant.

Versus

1. Shri Shripad Shankar
Singbal, major in age,
H.No.30/A, Davorlim,
Salcete, and

2. Mrs. Lalita Shripad
Singbal, major in age,
house no. 30/A,
Davorlim, Salcete.

...Respondents.

Shri V. P. Thali, advocate for the appellant.

Shri M. B. D'Costa, Senior Advocate with Shri J. A. Lobo,
advocate for the respondents.

CORAM : F. I. REBELLO, J.

DATE : 7th August, 2003.

ORAL JUDGMENT

Admit. By consent heard forthwith. Though the records and proceedings have not been called for, considering the limited controversy involved the Appeal is being heard finally.

2. The respondents are the original plaintiffs who filed the suit against the appellant herein for recovery of the balance amount of Rs.2,75,000/- in terms of the agreement

for sale entered into between the appellant and the respondents. The suit claim was quantified in the sum of Rs.3,25,380/-, being the principal amount of Rs.2,75,000/- and interest at 20% in terms of the agreement, till the date of the filing of the suit. The trial Court has decreed the suit and has awarded interest on the principal amount as on the date of the suit at 20%. This is the limited challenge insofar as the present appeal is concerned.

3. Considering the provisions of Section 34 of the C.P.C., this being not a commercial transaction, the trial Court could not have granted interest at more than 6%. In the light of that the Judgment and Order of the trial Court is liable to be interfered with insofar as the awarding of interest is concerned and interest instead of at 20% will be reduced to 6% from 14th June, 1999.

In the light of that the following Order:-

The Appeal is partly allowed. The decree stands modified inasmuch as the suit is decreed in the sum of Rs.3,35,350/- with interest thereon at 6% per annum from 14th June, 1999, till the date of payment. Appeal stands disposed of accordingly. No order as to costs.

F. I. REBELLO, J.

mc.